UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	.	Case No. 00-3837
	.	
OWENS CORNING, et al.,	.	
	.	USX Tower - 54th Floor
	.	600 Grant Street
	.	Pittsburgh, PA 15219
Debtors.	.	
	.	February 28, 2005
. . . . .		10:31 a.m.

TRANSCRIPT OF HEARING
BEFORE HONORABLE JUDITH K. FITZGERALD
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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For the OCUC:	By: GORDON HARRIS, ESQ. (Telephonic appearance)
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THE COURT: Good morning. This is the matter of Owens Corning. Can you hear?

UNIDENTIFIED ATTORNEY: Yes, Your Honor.

THE COURT: Mr. Pernick, can you hear?

MR. PERNICK: Yes. We heard in the courtroom, Your Honor.

THE COURT: All right. The parties that I have listed to appear by phone are Gordon Harris, John Shaffer, Isaac Pachulski, Joseph Gibbons, Robert Millner, Sander Esserman or David Parsons, Gerald Stein, Bruce White, Ira Levee, Natalie Ramsey, Elizabeth Magner, Howard Ressler, Julie David, and Steve Oroza. I'll take entries of appearances from those of you in the courtroom, please.

MR. PERNICK: Gordon Pernick on behalf of the debtors, Your Honor.

MR. SUDELL: William Sudell, Morris, Nichols, Arsht & Tunnell, on behalf of the official unsecured creditors committee, Your Honor. Thank you.

MR. PODESTA: Roger Podesta, special counsel for the debtors.

MR. EMRICH: Edmund Emrich with Kaye Scholer, representing the futures representative.

MR. FIORELLA: John Fiorella of Archer & Greiner, appearing for the Stratton claimants.

THE COURT: I'm sorry, sir. What was your last name?

MR. FIORELLA: Fiorella. F-i-o-r-e-l-l-a.

THE COURT: And who are you representing?

MR. FIORELLA: The Stratton class action claimants.

THE COURT: Thank you.

MR. NORTON: Good morning, Your Honor. Jeffrey Norton for the Stratton class claimants.

MR. COBB: Good morning, Your Honor. Richard Cobb on behalf of Credit Suisse First Boston as agent. With me today, Your Honor, is Mr. Barry Ostrager of the Simpson Thacher and Bartlett firm, also on behalf of CSFB.

THE COURT: Thank you.

MS. ZIEG: Good morning, Your Honor. Sharon Zieg of Young Conaway Stargatt and Taylor, also on behalf of the futures representative.

MR. YODER: Good morning, Your Honor. James Yoder of White and Williams on behalf of Taylor Ridge Corporation and Universal Building Products Corporation.

MR. BALDWIN: Good morning, Your Honor. David Baldwin, Potter Anderson and Corroon, for Kensington, Springfield. Thank you.

MR. MONACO: Good morning, Your Honor. Frank Monaco, local counsel for the designated members of the committees.

MS. ESKIN: Good morning, Your Honor. Marla Eskin, Campbell Levine, for the asbestos claimants committee.

THE COURT: Okay. Mr. Pernick?

MR. PERNICK: Good morning, Your Honor. Your Honor, let me just go through a summary which was on the amended agenda. And actually, I think updated even further because of a couple orders that were entered by the Court. So, just to make sure that our records are the same as the Court's, I have continued to 3/21 number two. That was the motion for a protective order regarding the trustee motion. Item number six, there was a certificate of counsel with a form of stipulated order attached. I think that was filed on Friday. I'm not sure if the Court had a chance to see that, but just to let you know that it was filed.

THE COURT: I haven't seen it.

MR. PERNICK: Okay. That's on the Hebron sale.

THE COURT: All right. What does it say?

MR. PERNICK: If I could have one moment, Your Honor, let me just grab that. There was an objection by the Ohio -- just -- I'm sorry, Your Honor. For the record, it was docket number 14578. It may help the Court in getting that. And it is with respect to the sale of real property in Hebron, Ohio. There was an objection of the Ohio State Fire Marshal, and that was filed at docket number 14468. The parties resolved that objection, and are submitting the proposed order, and that order, in summary, provides for the sale of the Section 363 -- pursuant to Section 363. And pursuant to Section 363(f), and this is in paragraph four of the order, the property is to be

transferred free and clear of any and all liens, claims, encumbrances, and interests, with all of those to be attaching to the proceeds, and the same priority with the same validity, force, and effect which they now have against the property. Just -- I don't -- nothing in the order, and this is in paragraph four, releases or nullifies any liability on the part of Owens Corning to the State of Ohio to comply with Ohio revised code Section 37-37.88 through 37-37.89, and the rules and regulations promulgated thereunder. So, there's basically a carve out for those sections for the Ohio State Fire Marshal.

THE COURT: All right. I will have that order pulled and signed. That seems to be an appropriate resolution of the objection.

MR. PERNICK: Okay. And I actually have another copy here, if the Court would like it. I can give it to Rachel.

THE COURT: No. I'm going to read it first, Mr. Pernick. Thanks. I'll just have it pulled here and sign it, and return it to her later for filing.

MR. PERNICK: Okay. Thank you. You entered an order in number seven which was the Foreland stipulation, and also in number eight with respect to the motion to stay the adversary actions. That was an additional stay of six months. And there was one point I wanted to just raise on item number eight for the Court. While the agenda states that the motion to stay the adversaries was uncontested, and as a result the actions were

stayed in the pretrial conferences also won't be going forward. I wanted to just let the Court know that with respect to Foster and Sear's adversary action, which was number 9A on the agenda, that was not stayed by Court order, and so that's not covered by this order, and we just wanted to clarify that. Foster and Sear, however, agrees, and we did speak with them before this hearing, that the pretrial with respect to their matter should not go forward today. And in the event the Court wants a pretrial conference, and the parties agree, that we'll be happy to have that in March, or at any other date that the Court would like to have it. And I believe that Foster and Sear's counsel is on the phone just to confirm that.

THE COURT: Counsel for Foster and Sear is on the phone?

MR. WHITE: Your Honor, Bruce White appearing on behalf of Foster and Sear. That's correct.

THE COURT: All right. So, are you two just going to put it back on the calendar when you think it's appropriate and it's stayed indefinitely, or what? I'm not clear.

MR. PERNICK: Your Honor, that's correct. We will put it back on when we believe it's appropriate.

THE COURT: All right. Thank you.

MR. PERNICK: That would also cover number nine, which were the adversary pretrials, and we assume that those would be stayed pursuant to the order, which leaves with the

following matters going forward: item number one, which is the Mira Vista class certification motion on a status conference basis only; number three, which is the Taylor Ridge Section 362 motion, and it was going forward for the purpose of its scheduling an evidentiary hearing only; number four and number five, which are related, the CSFB motion to commence an adversary action, and the motion for a determination of core, non-core, that was number five; number ten, which was the discussion carryover from last time regarding telephonic procedures for hearings; and number 11, which was the emergency motion with respect to trading restrictions. Unless the Court has a preference, I would propose to just go in the order that they were listed on the agenda.

THE COURT: That's fine.

MR. PERNICK: We'll start with number one, which is the Mira Vista class certification status conference, and Mr. Podesta for the debtor is handling that.

MR. PODESTA: Good morning, Your Honor. Roger Podesta, for the debtors. In terms of the Mira Vista class action proceedings, we have completed our fact discovery and the parties have exchanged all their expert reports. Last week we had a settlement meeting and the plaintiffs have provided us with a written settlement demand, to which the debtors expect to be responding shortly. So, I think this matter is proceeding along, and I am not aware of any currently pending

disputes.

THE COURT: Okay. So, you simply want this continued again?

MR. PODESTA: Yes. I believe so.

THE COURT: How long?

MR. PODESTA: Let me just consult with counsel for the plaintiff.

THE COURT: All right.

(Pause)

MR. PODESTA: If Mr. Oroza is on the line, I think plaintiff's counsel would like a little input from Mr. Oroza. I think the only issue, Your Honor, is if -- if there has been some thought that we put off the expert witness depositions briefly to explore the possibility of settlement, which might squeeze the plaintiffs on the briefing of the class action -- a briefing, and so we might need a little adjournment down the road of the argument on the class action of -- but I believe that's the only --

UNIDENTIFIED ATTORNEY: That's correct. We're actually -- we've pushed back the expert discovery to the point where we're going to need to make an adjustment in the schedule. Even now it's not completely clear that's going to require an adjustment of the hearing date, but if it's pushed back much further we are almost certain we will. But we're in the process of discussing that, and if we do we can agree

we'll submit a stipulation. I would just suggest that we set this for a status on the next month's omnibus calendar, and then we can report on where we stand on that issue.

THE COURT: All right. That's fine.

UNIDENTIFIED ATTORNEY: Thank you, Your Honor.

THE COURT: So, next month we'll do a status conference at the omnibus hearing, but then it's with the idea of getting an order in place for briefing if you haven't settled. Is that it?

UNIDENTIFIED ATTORNEY: Yes, Your Honor.

THE COURT: Okay. Thank you.

MR. PERNICK: Your Honor, that takes us to item number three, which is the motion of Taylor Ridge Corporation and Universal Housing Corporation for the entry of an order pursuant to Section 362, and in the alternative compelling the debtor to assume or reject executory contracts and for the related relief. And it's on the Court's calendar for a scheduling and evidentiary hearing. The Court may recall that this action arises out of a condominium development project that was assumed by the condominium counsel, and a claimed indemnification in favor of Taylor Ridge against Reynolds, which is an Owens Corning entity. They've asked for relief from stay to proceed with that, and, Your Honor, we don't believe actually that an evidentiary hearing is necessary. There may just be a hearing obviously necessary on the

underlying merits. But I believe that Mr. Yoder, and I'm not sure if co-counsel is in Court or on the phone, but would like to speak to why an evidentiary hearing is necessary, and then if the Court agrees we can talk about scheduling that.

THE COURT: All right. Mr. Yoder?

MR. YODER: Actually, Your Honor -- this is James Yoder on behalf of Taylor Ridge. I've spoken with co-counsel for the debtor and we're going to attempt to stipulate to the facts to avoid the necessity of an evidentiary hearing. We haven't had those discussions yet, but at this point I think an argument of an hour would suffice, without having to worry about putting witnesses on.

THE COURT: Okay. After your stipulations are filed? An argument after the stips are filed?

MR. YODER: Yes.

THE COURT: All right. Why don't you folks work out a time by which the stipulations will be filed, and also any briefs, and then I'll give you an argument date after I see when your last briefing is due.

MR. YODER: That's fine, Your Honor. Thank you.

THE COURT: All right. Then I'll expect to get a certification of counsel from the debtor that will set dates for filing of stips of fact and briefs, and leave a blank space for an argument of -- Mr. Pernick, does the debtor agree it will take an hour? Should I reserve an hour?

MR. YODER: Yes, Your Honor. We think that's fine. And we also agree, obviously, to talk about a stipulation of facts, which, I apologize, I didn't speak about in the beginning. But we have spoken about that before the hearing.

THE COURT: Okay. I will not be doing the argument, since it will take an hour on an omnibus hearing date. It will be a separate date, and it will be in Pittsburgh. You folks can decide if you want to do it by phone or come here. I don't have a preference, since it's an argument. But I will give you the date for it after I see when your last briefs are due.

MR. PERNICK: Okay. Thank you, Your Honor.

MR. YODER: Thank you, Your Honor.

THE COURT: Thank you.

MR. PERNICK: That takes us to item numbers four and five, and that's Mr. Ostrager's motion, and on the debtor's behalf Mr. Podesta is handling that.

MR. OSTRAGER: Good morning, Your Honor.

THE COURT: Good morning.

MR. OSTRAGER: I represent Credit Suisse First Boston as agent for the pre-petition bank lenders to Owens Corning. The pre-petition bank lenders wish, pursuant to the Cybergenics case, to commence an adversary proceeding against certain B reader radiologists who we contend are responsible for billions of dollars having been wrongfully paid out, a fact which the debtor apparently doesn't deny. We've asked the debtor to

initiate this action. The debtor has declined. The bank lenders are prepared to fund, at their own expense, the prosecution of the action. The action alleges fraud and negligent misrepresentation. The allegations of fraud are really, in our judgment, res ipsa issues arising from the Friedman report, which was issued in 2002, and which concluded that it's statistically impossible for the variations in the readings that exist post facto that --

THE COURT: I'm sorry. You're fading out, Mr. Ostrager. I'm sorry.

MR. OSTRAGER: I started to say, and I apologize for the acoustics here, that in 2002 a report was issued by Professor Friedman concluding, in essence, that 90 percent of the B readings by the B readers who we proposed to name in this lawsuit were fraudulent, and that it could not be the result of some subjective differences of opinion by one set of B readers and other B readers. That conclusion was reaffirmed in 2004 by Mr. Gitlin, who also found a 90 percent variation in terms of what objective readings of x-rays showed compared to what proposed defendants' B readings are. The debtor has alluded in it's --

THE COURT: I'm sorry. Now I can't hear you at all.

MR. OSTRAGER: Your Honor, with our indulgence, I'm just speaking as loudly as I can into the microphone.

THE COURT: I'm not sure. I think maybe your papers

are covering up part of the speaker.

MR. OSTRAGER: I've moved my papers.

THE COURT: The round disk is the microphone.

MR. OSTRAGER: Okay.

THE COURT: Okay?

MR. OSTRAGER: Can you hear me now, Your Honor?

THE COURT: Yes, I can. Thank you.

MR. OSTRAGER: To just summarize what I said while my papers were on the microphone, the debtor acknowledges that four B readers who we propose to name as defendants are also involved in silica-related proceedings in Corpus Christi, Texas. In those proceedings some of the proposed defendants have conceded under oath that their findings were improper, and incorrect, and negligent. We think that on the basis of the Friedman report, the Gitlin report, these are 2002 and 2004 reports, there is no question that there has been improprieties in connection with reports made by the B readers that have resulted in billions of dollars of money being paid out of the estate, and very simply, if billions of dollars has wrongfully been paid out, which is a fact that the debtor doesn't deny, creditors can't be fairly treated, and in --

THE COURT: Well, the issue seems to be, really, comes down to one thing, and that is whether or not there is some indemnity that the banks, as agents, are willing to provide the debtor in the event that counterclaims are filed.

The debtor has done an analysis, indicated that in its view the suits will cost more than will be recovered for the benefit of the estate, and on top of that that there could be significant counterclaims filed. That does not appear to be an unreasonable basis upon which to refuse to take the suits forward.

So, the question is, if Credit Suisse is that convinced that the debtor is incorrect, then provide an indemnity, or post a letter of credit, or do something that permits the suits to go forward. And I guess you've got the authority -- I am a little concerned, even under Cybergenics, as to whether a specific creditor group, as opposed to an organized group of creditors such as a creditors committee or an asbestos committee, has the authority to commence the action, but the debtor hasn't raised that issue, so I guess in this instance I may not take that on on my own.

But with respect to the debtor's refusal, based on the fact that the claims against the estate could exceed the recovery, that's a legitimate reason for refusing to go forward. So, if you want to do it, tell the debtor how you're going to either indemnify, or post something that will stand the debtor's estate in good stead so that if, in fact, the recoveries do not exceed the costs, or the recoveries -- or the recoveries are significantly greater than the costs, the debtor's estate will be compensated. Doing that, then you will

get your authority.

MR. OSTRAGER: Your Honor, the debtor concedes that a single creditor can sue derivatively, and Your Honor did take note of the fact that the pre-petition bank lenders are prepared to fund this, so there can be no cost to the estate.

THE COURT: Of course there can. There can be significant cost to the creditors in the estate if counterclaims are filed and you are unsuccessful in the suit. And that's the issue the debtor is raising. The debtor has a fiduciary duty to all creditors to make sure that estate assets are not wasted. And by permitting a suit to go forward that could increase the claims exponentially against the benefit to the estate, that's a good reason why the debtor can refuse to go forward. So, based on the debtor's assertion that that's the issue, either provide an indemnity or figure out how you're going to compensate the estate in the event that that eventuality happens, and then you'll have your authority.

MR. OSTRAGER: Your Honor, the debtor concedes that billions of dollars have been paid out as a result of wrongdoing by the B readers.

THE COURT: Well, I haven't seen that concession.

MR. OSTRAGER: Well --

THE COURT: If it's in the papers, I don't read the papers that way. But what the debtor has said is they did a study, they agree that there are probably some payments -- I

don't recall the billions of dollars, quote, unquote, that may have been improperly paid. Nonetheless, the cost of recovery may not exceed the counterclaims and other issues that will come back to the estate. I mean, are these B readers even solvent? I mean, I don't know whether you're going to pursue somebody if -- if they're going to be subject to judgments in the silica cases, by the time you get in line in priority, are they going to have anything to pay over?

MR. OSTRAGER: Your Honor, the debtor is trying to conflate analyses that the debtor did in 1997 with newly discovered evidence in 2002 and 2004 based on the Friedman report and the Gitlin report. Now, the debtor concedes that any counterclaims by these B readers would be meritless and I submit to Your Honor that they wouldn't be able to meet the standard of Rule 11. People who have defrauded the estate out of hundreds of millions or billions of dollars by admittedly and concededly improper B readings do not have a basis for advancing counterclaims, so this whole issue --

THE COURT: Well then, it shouldn't be an issue to indemnify the estate, because you've already concluded that any counterclaim would be meritless, and so it shouldn't be an issue for your clients to decide that, fine, the debtor is wrong, and you'll indemnify the estate.

MR. OSTRAGER: Is it the Court's position that you are going to deny the -- the committee's claim unless there's

an indemnity?

THE COURT: Well, it's not a committee's claim. It's the banks as agents claim.

MR. OSTRAGER: Yes, the banks as agent claim.

THE COURT: I am -- I think that's what I'm going to do. I'm going to hear from the other side, but it seems to me there's some indemnity or some bond. Something has to be posted to ensure the creditors of the estate that they will not lose as the result of permitting one creditor to go forward with these suits.

MR. OSTRAGER: And the indemnity would be for these baseless counterclaims that the B readers might assert against the estate?

THE COURT: It would be for whatever counterclaims are asserted against the estate as the result of these actions that lead to a judgment against the debtor. I don't know whether they're baseless. I haven't heard anything about the merits. I'm not going to make a determination that they're baseless, number one. And number two, I don't know who all may file counterclaims.

MR. OSTRAGER: Well, Your Honor, the only people who can presumably file counterclaims are the people who we sue. And the people who we propose to sue are the B readers. And these are the same B readers who have admitted in Corpus Christi, Texas that they have improperly read silica-related

x-rays, and these are the same B readers who Mr. Friedman and Mr. Gitlin have concluded couldn't possibly have given honest reads of the --

THE COURT: I understand your argument. All I'm saying is the debtor is concerned in its fiduciary capacity that undertaking these suits will cost more than the recovery. And the debtor wants to protect the creditors to whom it owes that fiduciary duty from that risk. So, if Credit Suisse, as agent, is convinced that the debtor is in error and that more funds will indeed come in that will reimburse Credit Suisse for whatever 503 action it may have, or 506 claim, whatever the claim it will have against the estate for assuming these costs, and in fact will compensate creditors, then it should be, I guess, willing to provide that indemnity. Perhaps the debtor is wrong and Credit Suisse is correct. And if it is then the indemnity will never be called upon. But if the debtor is correct and Credit Suisse is wrong, and the indemnities are called upon, or in fact the costs exceed the return to the estate, then Credit Suisse should act at its risk under these circumstances. That is a reasonable position for the debtor to take.

MR. OSTRAGER: Okay. I'm going to make the executive decision on behalf of my client that we will indemnify the debtor for any counterclaims that are interposed by the B readers, and that should terminate controversy here because the

debtor doesn't oppose proceeding, and concedes that the counterclaims are largely meritless, and Your Honor, as the gatekeeper, is going to obviously apply Rule 11 to any counterclaims that are asserted.

THE COURT: Well, I'm going to apply Rule 11. I guess my concern, and what I want to hear from the debtor is whether that does -- that satisfies the debtor's objection.

MR. PODESTA: Your Honor, Roger Podesta for the debtor. I believe it does satisfy the debtor's objection. As I understand what Your Honor is saying, Credit Suisse is going to bear the costs of the attorney's fees and expenses incurred in connection with this litigation, and subject to potential reimbursement out of recoveries pursuant to the bankruptcy statute, and is going to indemnify the debtors against all costs and expenses of defending against and judgments against counterclaims, and that would be acceptable to the debtor.

THE COURT: Well, what they said was counterclaims by B readers.

MR. PODESTA: Yes. Well those, as I understand it, counterclaims by whomever they sue is what I interpreted Mr. Ostrager's statement to be, and he's only proposing to sue B readers. I think, and I'll discuss this off the record with Mr. Ostrager, I think the silica discovery shows that there should be some distinctions drawn against the -- drawn among the B readers in order to maximize the case. But I believe

that with an appropriate indemnity we're prepared to go forward. I do want to correct the record. The debtor certainly does not concede that there are billions of dollars that have been improperly paid. We investigated these B readers and tried to control what was being paid on that basis, and excluded some of them from various NSP agreements. But I will certainly acknowledge that we have long had concern about these B readers, and certainly with respect to Dr. Harron, there has been strong new evidence in the silica hearings held before Judge Jack in Corpus Christi last week, including the adoption of the amazing practice of rendering so-called two for a diagnoses, whereby Dr. Harron would read x-rays for one group of plaintiff's lawyers for asbestosis and find small irregular opacities, and then read either the same x-ray or another x-ray for the same individual for silica plaintiff's lawyers and diagnose silicosis based on large rounded opacities without ever once referencing the other. I think that's a problem. But the issue on recovery is that we had similar serious problems with the Pitts cases, and attorney's fees wound up three times the dollar recovery in settlement, and Mr. -- Dr. Harron would be the principal defendant, a 73 year-old radiologist from West Virginia, who no longer has an active practice, and I don't think a malpractice claim is going to cover -- any malpractice insurance he may have is going to cover outright fraud. So, that's our concern.

THE COURT: What about -- one thing that has not been stated in the pleadings and you just raised, Mr. Podesta, is the issue of settlements. Who is going to control what types of settlements will be discussed with any potential defendants? And I take it they're going to have to be brought before the Bankruptcy Court in any event, but I'm not sure that's part of the pleadings that you've filed so far.

MR. OSTRAGER: Obviously Credit Suisse is going to prosecute these actions on its own behalf, and we will consult with Mr. Podesta as special counsel for the debtor.

THE COURT: Wait. You're not pursuing them on your own behalf. You're pursuing them on behalf of the creditors of this estate. You have a fiduciary --

MR. OSTRAGER: Correct.

THE COURT: You're picking up a fiduciary duty to the creditors of this estate in this action.

MR. OSTRAGER: We understand that.

THE COURT: Okay.

MR. OSTRAGER: We understand that we are prosecuting this on behalf of the estate, and we understand that any settlements that we reach has to meet Bankruptcy Court approval.

THE COURT: All right.

MR. OSTRAGER: We also, you know, have the option of -- as reflected in our papers, of terminating the prosecution

of these cases if we conclude, in our derivative capacity, that it's no longer in the interest of the estate for us to pursue them. And again, we'll do this in consultation with Mr. Podesta and the estate.

THE COURT: All right. Mr. Podesta?

MR. PODESTA: I believe that my understanding is similar, Your Honor, that CSFB will be taking the lead role. But I presume they will consult with the debtor concerning potential settlements, and of course any settlement, I guess, would be a Rule 9019 settlement that would have to be approved by the Bankruptcy Court on notice.

THE COURT: All right. Why don't I get from you folks, when you have an opportunity to talk out the specific language that you want in the order, an order on a certification of counsel?

MR. OSTRAGER: We will do that. And thank you, Your Honor.

THE COURT: All right.

MR. PERNICK: Your Honor, believe that takes us to number ten.

THE COURT: Mr. Podesta -- I mean, Mr. Podesta, I'm sorry. Mr. Pernick. Give me just a second.

MR. PERNICK: That's all right, Your Honor. I'm flattered by the comparison.

MR. PODESTA: I'm glad it's on the record.

(Laughter)

THE COURT: Okay, Mr. Pernick. Thank you.

MR. PERNICK: Your Honor, we talked last time, and we have since the last hearing actually done a comparison of Court Call versus the current conference call vendor that we use, and just to give you what I think our conclusion is, and we can send the Court -- and probably -- it would probably be better, if the Court wants it, we'll file some kind of certification with a chart that we did attached just so every party that's interested can see it, but the Court also.

But the biggest difference is, if I can summarize it, seems to be the cost benefit of the current vendor actually versus Court Call. And what we did was we did a chart looking at the May, June, August, October, November, and December hearings, and just to give the Court one example, but they all run pretty much the same, the total cost of the current vendor for the December 20 hearing was $361. The total cost using Court Call would have been about $1,500.

Now, the reason for that is the current vendor that we use just charges by the minute by each -- for the total number of participants. Court Call charges a fee based on how long the call actually lasts, whether you participate or not. And so, if you sign up ahead of time and you don't end up on the call, they charge for that. The current vendor does not.

One of the big differences, I guess, is that under

the current system the debtor paid the entire cost of the call, and using Court Call the debtor would not pay the entire cost, although as the Court is well aware, the debtor is paying for a number of the participants in this case. I don't think it would cut it down two-thirds, or even a half, but it wouldn't -- it's not fair to compare these two numbers, because the debtor in all fairness, under Court Call, would not pay that entire, for example, for the December hearing, $1,500.

The other, I guess, major difference is, with Court Call is, I think the Court knows, if you don't tell the conference call service in advance that you want to participate as opposed to listening, you cannot participate if you change your mind, because they either plug you in or they don't, actually, for your specific matter, to speak; whereas on the current system, obviously people are on the call, and if something comes up that they want to speak about they can. Now, the down side of the current system is that you get, sometimes, background noise and, you know, people being on hold and that kind of thing, which I know has been a problem for the Court on some of our calls. But those are the main differences. I guess the one other difference is right now under the Court's procedures we have to advise the Court, and people have to tell us in time so we can do it, seven days in advance of who is going to participate, and I think the Court Call system is 48 hours, or two days. But again, that's the

Court's actual procedure, so maybe the seven days would apply to Court Call also. I just don't know.

THE COURT: Okay. Well, what's the debtor's choice in terms of what you want to do?

MR. PERNICK: Well, I think unless the Court has a problem with the current service, I would say that we stick with that just because I think it's been working relatively well. And if at any hearing, or after any hearing the Court or the other parties feel that there's a big problem and we should switch, we'll be happy to. But I think it's a little more efficient for the debtor to just pay for the call, and it's one of the benefits, or maybe down sides of being in bankruptcy in this case that, you know, we're going to pay for the call for people who want to participate to participate.

I will say one other thing, which is I was not aware until we did this chart that there actually are a fair number of people who say that they're going to participate in the call and they don't end up doing that. So, that is probably a little bit of a cost that under the current system the debtor is bearing, whereas under the Court Call service that would probably be split because some of those people might be constituents that we're paying for, and some of them may be people who have to pay it themselves. But I think we can probably deal with that issue a different way. I don't think it really effects which service we pick.

THE COURT: All right. Well, if the debtor is content to continue the same system as is currently in place, that's all right with me. I think you're correct that we can always change it at any point in time if there is an issue that arises. So, if that's the case then we'll just keep this process as it is.

MR. PERNICK: Would you like us to file a certification of counsel with the chart just so it's of record? Or is it not -- does nobody really -- it doesn't matter?

THE COURT: I don't know that it really matters much, unless somebody wants to see it. I accept your representation that you did the analysis, and it's significantly less costly overall this way, although maybe not to the debtor, specifically. Ms. Eskin?

MS. ESKIN: Your Honor? Marla Eskin, Your Honor. We certainly have no objection to continuing the procedure as it is now. There's just one issue. In -- the asbestos cases are generally heard all in one day. Many of the cases are now using Court Call, where it's a 48-hour notice. The procedures in this case are seven days notice for telephonic appearances. Often in these cases we have attorneys from out of state, and in particular in our case, Caplin and Drysdale, who may be coming in for other cases and will come in for this case. We find out a couple of days, you know, a day or two ahead of time things were resolved in the other cases and it's too late to

participate telephonically in this case. To be brief, there may be some confusion because it's still seven days for telephonic appearance in this case and in the other asbestos cases it's 48 hours notice. Is it possible for us to contact Mr. Pernick's office 48 hours in advance for telephonic appearance in this case? I've talked with Mr. Pernick --

THE COURT: The problem that I'm having is that I don't get the information soon enough. In fact, I'm thinking about extending the number of days for Court Call, because I don't get lists of who is participating. In fact, for one of the Court Call proceedings today I got it this morning, and as a result my staff doesn't have an opportunity to update the notes because they come in -- this information comes in right before the hearing. So, I'm dealing with that administratively internally within my office. But I'm thinking about expanding that period for Court Call as a result of the problem that it's creating getting ready for Court, as opposed to shortening it in this case.

MS. ESKIN: Okay. Then I'll wait and see what happens. Maybe we can, if possible, make it consistent. You may make it seven days, and then we won't have an issue. So, I'll just wait and see what happens.

THE COURT: Okay. But I cut you off. You said you talked to Mr. Pernick, and?

MS. ESKIN: Oh. There's no objection from his end if

it's 48 hours, so long as we do get to his office within 48 hours so he can get the information timely to your office.

THE COURT: Okay. Hold on a second. If we get the information 48 -- you know, the next day, in advance, and we don't put it on preceding memos, but simply attach the e-mail notice, is that --

(Judge confers with clerk)

THE COURT: Oh, okay. That probably will still work, if the e-mail list can be sent to my office the say that they're due, which I guess would be at least, what, 30 --

MR. PERNICK: Your Honor, I think you've got to do two business days, because if -- we typically have hearings on Monday --

THE COURT: That's the problem.

MR. PERNICK: -- 48 hours would be Friday. You're not going to get it in time.

THE COURT: Yes, that's the problem. In fact, I think that's the whole issue with all these Monday hearings, and most of these cases come up on Monday, which may be the problem. So, I don't have any objection trying to work with it, too, but I do need the list before Monday morning, so I guess I need it Friday.

MR. PERNICK: I would just -- just in case you change some of your dates, I would suggest just two business days in advance is the cut off.

THE COURT: Yes, I agree with that, Mr. Pernick. I was just trying to use that as an example, that I would need it at least Friday, not the day of the hearing, but at least a day in advance. So, two business days in advance of the hearing is fine.

MR. PERNICK: Yes. So, if they notify us two business days, that's Thursday, and then we have it to you by Friday morning, that will probably work.

THE COURT: That's fine. Okay. We'll try that, Mr. Pernick, and see if it works.

MR. PERNICK: Okay. And if it's not at any time, as the Court knows, if you wish to change it, that's fine with us.

THE COURT: Okay.

MR. PERNICK: That takes us to the last item on the agenda, which is item number 11. It's the debtor's emergency motion for the entry of an interim and final order pursuant to Sections 105, 362, and 541 of the Code limiting certain transfers of equity securities of the debtors, and approving related notice procedures. We filed this on February 23. It's docket number 14555. And as the Court is aware, this motion is only on for an interim hearing this morning. Where they proposed final hearing to be held, we proposed, at the April omnibus hearing date, to provide enough notice time for anybody who wishes to be heard to be heard, and I guess if somebody in the interim had some kind of emergency objection we obviously

would have no objection to them trying to bring that to the Court earlier. This is a motion that, as the Court I believe is aware, is getting filed more and more frequently in cases of large public companies, and I suspect that Your Honor is familiar with the relevant issues, but if you want I'd like to just take you through some of the hot points. I'm actually not sure whether we have any objections, or even parties appearing. Maybe that's the first question, because it was an emergency motion. There was no objection date. The parties are just supposed to appear in Court today or on the phone to voice any issues that they might have.

THE COURT: All right. Does anyone have an objection to going forward with the debtor's motion at agenda number 11 on an emergency basis today for interim relief? There's no objection, Mr. Pernick, and I am familiar with the issues. I've entered these orders in at least one, probably two or three of the Delaware cases recently.

MR. PERNICK: Yes, Your Honor. I guess there are a couple things that I'd just like to point out to the Court. This motion that we're asking for is similar to Grace but not exactly the same, and we actually have set our limit at a little bit below just so we have a little leeway, and we propose that anyone with at least a 4.75 percent interest of Owens Corning stock file a notice to that effect with the Court. We've proposed a form of notice attached as Exhibit A1

-- I'm sorry, 1A. And second, anyone who is a 4.75 percent owner or who would become an owner, we call them substantial equity holders as a result of the acquisition of Owens Corning stock would need to give the debtors prior notice of any proposed acquisition of that stock through the form of notice that is attached in Exhibit 1B. We would then have 15 days to object to that acquisition. If we don't object, the acquisition could not proceed unless permitted by the Court. If we do object, that objection would actually tee up a hearing, and so, it is our burden to basically get it to the Court by filing that objection. We do not shift the burden or put that burden on the equity holder. Their only burden is to file the notice, and then we have to object or not object.

We've asked for this to be approved on an interim basis with an order approving these procedures on a final basis to be issued only after a notice to all parties and all shareholders, and that they've all had an opportunity to object. And those are the two proposed forms of order that we've attached to the motion. One is the interim order and the second one is the final order. And we've suggested that in order to give everybody appropriate notice the final hearing be held at the April omnibus hearing, which is April 25, and that parties have until April 8 to object to that motion, and that is the normal objection date for the April hearing.

Just as far as notice is concerned, the Court should

know that we've already served this motion on the key parties in this case, as well as all current substantial equity holders. There are two of those that have filed the appropriate documents with the Securities and Exchange commission. We did that by e-mail or overnight delivery. We also served the entire 2002 list by regular mail, and we would propose that notice of the motion and of the Court's entry of the interim order on the motion be given to all shareholders and other interested parties so that they can review it and interpose any objections they might have.

I do have Mr. Mickeloneous -- Mr. Mickelonus in the Court with me. He is Owens Corning's Director of Taxation, in case the Court has any questions beyond my presentation or what's in the papers. But unless the Court has any questions, that concludes my presentation.

THE COURT: No, I don't have any questions. Does anyone have any comments or concerns?

MR. LOIZIDES: Yes. Good morning, Your Honor. Chris Loizides for certain preferred shareholders, including Sanford Bernstein. I can't say I'm really familiar with this motion, but I did have a question, and that is whether this procedure was intended to apply to preferred shareholders. My assumption is not, but I'd ask Mr. Pernick just to clarify that.

MR. PERNICK: Your Honor, this proposed procedure just applies to common shareholders.

MR. LOIZIDES: Okay. Thank you, Your Honor.

THE COURT: All right. Is the order clear, Mr. Pernick, that it's -- I think it is, that it's only to common stockholders. I didn't read it as applying to preferreds, but now that the question has come up maybe I just went by it too fast.

MR. PERNICK: I think it is, Your Honor, but if I can indulge the Court, give me one moment, I will double check that.

THE COURT: All right.

(Pause)

THE COURT: Oh. While Mr. Pernick is looking at that, I think I skipped something on item four. CSFB asked for leave to file a reply or a rebuttal to the debtor's brief. It came in late and it exceeded the five pages that I permit in any event; nonetheless, having already ruled and expecting to get an order on that issue, I'm going to permit it in this instance, but in the future please limit it to five pages.

MR. PERNICK: Your Honor, I actually think the motion is pretty clear, but the order does not specify it, so let us send you a revised form of order so that people don't have to look at the motion, which makes it clear that it applies to common shareholders only.

MR. LOIZIDES: I'd very much appreciate that, Your Honor.

THE COURT: All right. Thank you.

MR. PERNICK: And we'll change the appropriate forms of notice so that they're all consistent.

THE COURT: Okay. That's fine. Just file it on a C.O.C., Mr. Pernick, please.

MR. PERNICK: Okay. And, Your Honor, I think from the debtor's perspective that's all we have.

THE COURT: Okay. Thank you.

MR. PERNICK: Thank you very much.

THE COURT: Anyone have any housekeeping matters? All right. We're adjourned. Thank you.

MR. PERNICK: Thank you.

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C E R T I F I C A T I O N

I, TAMMY DeRISI, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

_____ Date: March 7, 2005

TAMMY DeRISI

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